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Federal-State Joint Board on Universal)
 Service: Promoting Deployment and)
 Subscribership in Unserved and)
 Underserved Areas, Including Tribal and)
 Insular Areas)

CC Docket No. 96-45

Comments of the Public Service Commission of the United States Virgin Islands

Basic telephone service has become a necessity (and a national goal) in our society. In fact, the rapid rise of the Internet and other advanced telecommunications services has made basic telephone service the bare minimum that people need to participate in the Information Age. The Public Service Commission of the United States Virgin Islands ("VIPSC") has taken many steps to ensure that all citizens of the United States Virgin Islands ("U.S.V.I.") have access to basic telecommunications services. However, given the unique circumstances that face the citizens of the U.S.V.I., it simply is not possible for the VIPSC to advance the goal of universal access on its own. Continued help is required at the federal level.

The VIPSC welcomes this opportunity to provide comments on the FCC's Further Notice of Proposed Rulemaking on Tribal and Insular Areas.¹ While the VIPSC recognizes the FCC's

¹ Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, CC Docket No. 96-45, *Further Notice of Proposed Rulemaking*, FCC 99-204 (rel. Sept. 3, 1999) ("FNPRM").

prior steps to “bring[] telecommunications services to all regions of the nation,”² a different approach is required. The FCC needs to recognize that many factors unique to insular areas affect the ability of carriers providing telecommunications services in those areas to provide them at an affordable rate. Therefore, the FCC must establish mechanisms that continue to ensure that insular areas receive the support they need for universal service.

I. THE COMMUNICATIONS ACT REQUIRES THE FCC TO ESTABLISH SPECIAL MECHANISMS TO ENSURE THAT INSULAR AREAS RECEIVE ADEQUATE UNIVERSAL SERVICE SUPPORT

In the Communications Act of 1996, the United States Congress stated that:

Consumers in all regions of the Nation, including ... those in rural, *insular*, and high cost areas, should have access to telecommunications and information services ... that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charges for similar services in urban areas.³

Of particular note is the fact that the Congress specifically charged the Commission with a duty to promote universal service in insular areas. This additional language highlights the fact that insular areas have characteristics that are different from those faced by rural and other high cost areas. Therefore, the Commission has a special charge to ensure that its policies account for the unique characteristics and needs of insular areas.

In the *FNPRM*, the Commission asks for comment on the definition of an “insular area” proposing to define it as “islands that are territories or commonwealths of the United States.”⁴

² *Id.* at ¶ 3.

³ 47 U.S.C. § 254(b)(3) (emphasis added).

⁴ *FNPRM*, at ¶ 137.

Using the Commission's proposal, this definition would specifically include the U.S. Virgin Islands as an insular area.⁵ While the VIPSC takes no position on whether the definition of an insular area should include those U.S. island states, VIPSC believes that the FCC has correctly identified the U.S.V.I. as an insular area.

II. TELEPHONE COMPANIES IN INSULAR AREAS FACE MORE DIFFICULTIES IN PROVIDING UNIVERSAL SERVICE THAN IN OTHER PARTS OF THE UNITED STATES

In the *FNPRM*, the Commission asks about the level of telephone service penetration in insular areas in order to understand "the impediments to higher penetration rates."⁶ Specifically, the FCC requests information on demographic, geographic, financial, and other factors that affect these rates.

A. Telecommunications Providers in the U.S.V.I. Face Unique Factors that Increase Costs

There are a number of factors that telephone companies operating in U.S.V.I. must face that have the effect of increasing the cost of providing telecommunications services to customers living in the territory. Yet, these same factors are not as severe for those companies providing telecommunications services in the United States. One factor that increases the costs of providing service in the U.S.V.I. is tied to its geography. While some areas of the mainland United States are considered isolated from the rest of the country, over 1200 miles of ocean separate the U.S.V.I. from the mainland U.S. This isolation has the effect of dramatically increasing the costs of all products delivered to, and sold in, the territory because of the simple

⁵ *Id.*, at n.254.

⁶ *See FNPRM*, at ¶¶ 20, *et seq.*

fact that it costs so much more to ship and deliver goods to the islands.⁷ Further, the topography and geology serve to drive up telecommunications costs. For example, the terrain of the islands is not level, but rather, the islands are the product of volcanic activity and are mostly hilly with many rugged, mountainous areas. Thus, the telecommunications transmission facilities require additional guying and anchoring and the distances between points are increased.

Additionally, telecommunications providers operating in the U.S.V.I. face a harsh environmental climate that substantially increases operating costs. The salt water air is corrosive and inhospitable to telecommunications equipment. Thus, exposed equipment does not last as long here as it would in another climate or additional measures must be taken to protect the equipment. The islands are located right in the heart of the area vulnerable to the ravages of hurricanes.⁸ Given the terrain, the bulk of the population resides on the coastal regions of the territory, and, as a result, the bulk of the telecommunications facilities are found there as well. Thus, either these facilities must be built to withstand (or, more properly, minimize the exposure of) this significant threat or the telecommunications provider must budget for this contingency.

One end result of these factors is that the rates that customers pay in the U.S.V.I. are significantly higher than the U.S. national average. Residential rates in the U.S.V.I. average \$18.55 per month, 63% higher than the average rural rate (\$11.51) and 30% higher than the

⁷ The Islands' cost of living is thirty percent higher than the national average.

⁸ The effects of a direct hit on the islands can be devastating. As a result of Hurricane Marilyn (Sept. 1995), an estimated 80 percent of the homes and businesses on St. Thomas were destroyed and at least 10,000 people were left homeless. Another 30 percent of the homes on St. John were destroyed and 60 percent were roofless and about 20 to 30 percent of homes in St. Croix received damage. Total costs of the damage ran to around \$3 billion. National Hurricane Center, Tropical Prediction Center, *Preliminary Report on Hurricane Marilyn* <<http://www.nhc.noaa.gov/1995marilyn.html>> (last updated 1/8/99).

average *urban* rate (\$14.20). Business rates are no better. The business single line flat rate in the Virgin Islands is \$49.85 per month, which is *more than double* than the average rural rate (\$21.72) and 42% higher than the average *urban* rate.⁹

B. Economic Conditions in the U.S.V.I. Limit the Ability of Its Citizens To Obtain Telecommunications Services

The difficulties created by the increased costs are further aggravated by the fact that the U.S.V.I. is not a wealthy territory. The GDP per capita in the territory is quite low. In the U.S.V.I. the per capita GDP is \$18,287 (1998 est.),¹⁰ compared to the U.S. average of \$31,500 (1998 est.).¹¹ The low GDP translates into personal poverty. According to the 1990 census, nearly a quarter of the Islands' population live below the poverty line.¹² Even accounting for people living above the poverty line, the U.S.V.I. is not particularly wealthy when compared to the U.S. For instance, the average disposable income here is only sixty percent of that of the United States. The wealth effect of these personal income figures is further diminished by the fact that the cost of living in the U.S.V.I. is quite high, again, in part, because it is expensive to ship the needed necessities to the territory.

⁹ See Common Carrier Bureau, FCC, *Reference Book of Rates, Price Indices and Expenditures for Telephone Service* (June 1999).

¹⁰ See World of Information Key Indicators (10/31/99), *available at*, 1999 WL 12946076.

¹¹ See CIA World Factbook (1999).

¹² See 1990 Census of Population, Social and Economic Characteristics, Virgin Islands of the United States (1990 CP-2-55) (noting that 23.2 percent of the people in the U.S.V.I. live below the poverty line). By comparison, in the mainland U.S., less than 14 percent of the population lives below the poverty line.

Given the lower level of wealth and the increased costs of living, it is not surprising to find that penetration rates in the U.S.V.I. are lower than the national average. According to recent figures, the U.S.V.I. has a penetration rate of approximately 88 percent. This figure is nearly 10 percent lower than the United States' penetration rate of just over 94 percent.¹³ Notwithstanding our current depressed economic conditions, the U.S.V.I. is a loyal and strategic part of the United States in the Caribbean and must not be left on the wrong side of the digital divide through poor policy choices that fail to ensure that insular areas attain a robust and modern telecommunications infrastructure.

III. THE FCC MUST DESIGN UNIVERSAL SERVICE SUPPORT TO REFLECT THE UNIQUE CONDITIONS OF INSULAR AREAS

The Commission also asked that commenters “discuss potential solutions to overcoming those impediments.”¹⁴ The VIPSC cannot overemphasize that any analysis that may be appropriate for the mainland United States must be carefully scrutinized before any application to the U.S.V.I.

A. Insular Telephone Companies Should Be Able To Compute Universal Service Support Based on Actual Costs.

As an initial matter, the FCC should permit telephone companies serving insular areas to compute the level of universal support that they need based on their actual costs. This approach would be one measure that would account for the differences that are posed by providing service to insular areas. In fact, taking such a course would simply implement an earlier

¹³ See Industry Analysis Div., Common Car. Bureau, FCC, *Trends in Telephone Service*, Table 17.2 (Sept. 1999).

¹⁴ FNPRM, at ¶ 21.

recommendation of the Joint Board that “rural carriers serving high cost insular areas ... should continue to receive universal service support based on their embedded costs.”¹⁵ The Joint Board made this recommendation on the grounds that that the unique circumstances faced by insular carriers required a different approach to funding universal service.

The use of the models developed for use with the non-rural carriers cannot be applied to insular areas because of the fundamental differences in the geography between the areas served. Geography, and the geographic obstacles that must be overcome, greatly influence the cost of linking a customer to the network. Thus, given that the Commission has expressly stated that customer location is important to determining costs,¹⁶ the geographic surroundings in which that customer resides also plays a critical role in determining those same costs. Models that fail to account for unique geographic factors will necessarily fail to accurately determine the costs of providing service.

B. The FCC Should Not Require Insular Areas To Contribute to Universal Service Support Due to the Lack of Intrastate Sources To Support USF Contributions

Another means by which the FCC can guarantee that universal support mechanisms will allow the people of the U.S.V.I. to afford basic telecommunications service is to support fully the universal service needs of the U.S.V.I. Unlike the vast majority of every other mainland U.S. jurisdiction, the U.S.V.I. has no *intrastate* toll service because the entire island archipelago is one

¹⁵ *Federal-State Joint Board on Universal Service (Recommended Decision)*, 12 FCC Rcd 87, 308 (Joint Bd. 1996).

¹⁶ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, *Further Notice of Proposed Rulemaking*, FCC 99-120, at ¶ 23 (rel. May 28, 1999) (“*Input FNPRM*”).

local calling area. As a result, the VIPSC does not enjoy an intrastate toll revenue base from which it can makeup for any shortfall created by a reduced level of federal support of the high-cost fund. This situation is compounded by the fact that the territory's major local carrier relies on receiving universal service support, therefore it cannot make up the differences either. Further, given the tiny size and population of the territory, there simply are not enough ratepayers of any type from which additional revenues could be disproportionately collected. Thus, the only means by which the U.S.V.I. could make up this shortfall would be to increase the basic rates of *all* its customers. As discussed above, the economics of the territory and the already high rates U.S.V.I. consumers pay make that prospect one that will guarantee that the already low penetration rates will certainly go lower.

IV. CONCLUSION

Insular areas are different from the mainland United States. Features of insular areas increase the costs of providing service that increase rates and decrease penetration levels. In the U.S.V.I. these factors are aggravated due to the economic conditions of the territory. Thus, in order to advance the goals of universal service, the FCC must design its policies to account for the unique nature of insular area. Two critical components of any policy would be to compute universal service support based on actual costs and to fund fully the universal support the territory needs. Only by acting in this manner will the FCC fulfill its statutory obligation to support universal service and help the VIPSC keep the citizens of the U.S.V.I. from being left behind in the Information Age.

Respectfully submitted,

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